

REMARKS

Claims 1-33 remain in the Application for consideration. In view of the following remarks, Applicant traverses the Office's rejections and respectfully requests that the application be forwarded on to issuance.

Drawings

In the Office Action, the Office alleges that the drawings in the present Application fail to show every feature of the invention specified in the claims, and specifically the subject matter recited in claim 1. Applicant respectfully disagrees and submits that the subject matter recited in claim 1 is shown in the drawings as presented in the present Application.

Specifically, figure 5 illustrates one embodiment of the subject matter recited in claim 1. The “synchronize” step shown in figure 5 is discussed on pages 8-10 of the Application. As explained in the Application, the synchronize step includes, among other things, the act of “receiving an indication of a change to information in a first namespace” (e.g. the buffer namespace illustrated in the figure) and the further act of “based on the indication, determining if an entity exists in a second namespace related to the information” (e.g. the core namespace). As further explained in the Application, when the change to the first namespace (e.g. the name change from “Alpha” to “Beta”) is received by the second namespace (the Core), this results in a name conflict in the second namespace since an Alpha entity already exists in that namespace. Thus is disclosed the feature of “determining if the entity (the Alpha entity in the Core namespace) has a characteristic that conflicts with the information.”

Figure 5 further illustrates that in response to the name conflict, the Alpha entity in the Core namespace is designated as transient (i.e. is modified) and that the transient Alpha entity is subsequently renamed as Tango. Thus is illustrated the feature of “if a conflict exists, modifying the entity to resolve the conflict (e.g. designating the Alpha entity as transient) prior to applying the change to the second namespace (e.g. renaming the transient Alpha as Tango).”

Accordingly, Applicant submits that figure 5 illustrates one embodiment of the subject matter recited in claim 1 and that the Office’s requirement for the submission of an additional drawing should be withdrawn.

§ 101 Rejections

Claims 1-33 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter.¹

As to claim 1, the Office argues that, “in light of the disclosure”, the claim is directed to an abstract idea in that the method is “software per se.” The Office further argues that the subject matter of claim 1 fails to produce a useful, concrete and tangible result. Applicant respectfully disagrees and submits that claim 1 complies with the requirements of § 101.

As pointed out by the Office, abstract ideas are not patentable subject matter under § 101. However, as explained in AT&T Corp. v. Excel Communications, Inc., if an abstract idea is taken out of the abstract and employed in a process that achieves a “new and useful end”, the *process* is patentable subject matter, even if the idea by itself would not be. 172 F.3d 1352, 1357 (1999). In AT&T, the Court looked at the specification and found that the environment and use of the claimed subject matter provided a useful, concrete and tangible result.

1 That result, however, was not specifically recited in the claim. Rather, it was
2 described in the specification.

3 Likewise, in the case at hand the Specification clearly describes the utility
4 and tangibility of the claimed subject matter:

5 [M]echanisms and techniques are described for enabling *incremental non-*
6 *chronological synchronization of namespaces*. In an environment, entities
7 must have unique names within a namespace and entities may only refer to
8 entities that actually exist within the namespace. Synchronizing two such
9 namespaces involves providing a mechanism for indicating that an entity
10 has been created because a reference to that entity has been made even
11 though that entity does not yet exist. At such time as the entity is formally
12 created, the indication is removed. Synchronizing two such namespaces
13 also involves providing a mechanism for indicating that an entity's unique
14 name in the namespace has been compromised through the synchronization
15 process. Specification at page 2 (emphasis added).

16 Accordingly, in this excerpt as throughout the document, it is evident that
17 the claimed subject matter has a specifically described useful, concrete and
18 tangible result and application. Among other things, the embodiment of claim 1
19 allows for the incremental and non-chronological synchronization of namespaces,
20 thus producing at least the useful result of properly synchronized namespaces.

21 In light of this discussion, Applicant respectfully requests that the § 101
22 rejection of claim 1 be withdrawn.

23 The Office has further rejected claims 2-12 based on the same analysis
24 presented for claim 1. However, Applicant submits that claim 1 complies with §
25 101 and as such, the further rejections of claims 2-12 should be withdrawn.

As to claim 13, the Office argues that the claim is directed to an abstract
idea in that the method is "software per se" and further argues that the subject

1 matter of claim 13 fails to produce a useful, concrete and tangible result.
2 However, Applicant respectfully disagrees and submits that claim 13 complies
3 with the requirements of § 101.

4 As explained above, Applicant's Specification is replete with examples and
5 explanations as to the utility of the particular embodiments represented in
6 Applicant's claims. As such, Applicant respectfully requests that the rejection of
7 claim 13 under § 101 be withdrawn.

8 The Office has further rejected claims 14-20 based on the same analysis
9 presented for claim 13. However, Applicant submits that claim 13 complies with
10 § 101 and as such, the further rejections of claims 14-20 should be withdrawn.

11 As to claim 21, the Office again argues that the claim is directed to an
12 abstract idea in that the method is "software per se" and further argues that the
13 subject matter of claim 21 fails to produce a useful, concrete and tangible result.
14 However, Applicant respectfully disagrees and submits that claim 21 complies
15 with the requirements of § 101.

16 As explained above, Applicant's Specification is replete with examples and
17 explanations as to the utility of the particular embodiments represented in
18 Applicant's claims. As such, Applicant respectfully requests that the rejection of
19 claim 21 under § 101 be withdrawn.

20 The Office has further rejected claims 22-23 based on the same analysis
21 presented for claim 21. However, Applicant submits that claim 21 complies with
22 § 101 and as such, the further rejections of claims 22-23 should be withdrawn.

23 As to claim 24, the Office argues that the claim is directed to an abstract
24 idea in that the method is "software per se", that the subject matter of claim 24

1 fails to produce a useful, concrete and tangible result, and that the subject matter
2 of claim 24 is not stored on a suitable computer readable medium.

3 As to the allegations that claim 24 is an abstract idea and lacks utility,
4 Applicant restates the arguments presented above with respect to claim 1 and
5 submits that in light of Applicant's Specification, the subject matter of claim 24
6 complies with the § 101 requirements for statutory subject matter.

7 As to the allegation that the subject matter of this claim is not stored on a
8 suitable computer readable medium, Applicant respectfully disagrees and points to
9 the plain language of the claim, which begins by reciting “[a] computer-readable
10 medium encoded with a data structure....” Thus the plain language of the claim
11 contradicts the Office’s argument in that the claim recites that a data structure is
12 indeed stored (encoded) on a computer-readable medium. Accordingly, and at
13 least for the reasons discussed above, Applicant submits that claim 24 complies
14 with the requirements of § 101 and that the § 101 rejection should be withdrawn.

15 As to claim 25, the Office argues that the claim is directed to an abstract
16 idea in that the method is “software per se”, that the subject matter of claim 25
17 fails to produce a useful, concrete and tangible result, and that the subject matter
18 of claim 25 is not stored on a suitable computer readable medium.

19 As to the allegations that claim 25 is an abstract idea and lacks utility,
20 Applicant restates the arguments presented above with respect to claim 1 and
21 submits that in light of Applicant's Specification, the subject matter of claim 25
22 complies with the § 101 requirements for statutory subject matter.

23 As to the allegation that the subject matter of this claim is not stored on a
24 suitable computer readable medium, Applicant respectfully disagrees and points to
25 the plain language of the claim, which begins by reciting “[a] computer-readable

1 medium having computer-executable components....” Thus the plain language of
2 the claim contradicts the Office’s argument. In order for a computer-readable
3 medium to have computer-executable components, said components would
4 necessarily have to be stored on the computer-readable medium. Accordingly, and
5 at least for the reasons discussed above, Applicant submits that claim 25 complies
6 with the requirements of § 101 and that the § 101 rejection should be withdrawn.

7 The Office has further rejected claims 26-33 based on the same analysis
8 presented for claim 25. However, Applicant submits that claim 25 complies with
9 § 101 and as such, the further rejections of claims 26-33 should be withdrawn.

10

11 **Double Patenting Rejections**

12 Claims 1, 13, 21, 24 and 25 stand provisionally rejected under the doctrine
13 of obviousness-type double patenting over U.S. Patent App. No. 10/671,408.
14 Applicant respectfully requests that the Office hold these rejections in abeyance
15 until the notice of allowable subject matter.

16

17 **§ 103 Rejections**

18 Claims 1-15, 20-23 and 25-31 stand rejected under 35 U.S.C. § 103(a) as
19 allegedly being obvious over U.S. Patent No. 6,061,742 to Thatcher, et al.
20 (hereinafter “Thatcher”) in view of U.S. Patent Pub. No. 2003/0131104 to
21 Karamanolis, et al. (hereinafter “Karamanolis”).

22 Claims 16-19 and 32-33 stand rejected under 35 U.S.C. § 103(a) as
23 allegedly being obvious over Thatcher in view of Karamanolis and further in view
24 of U.S. Patent No. 6,154,212 to Eick, et al. (hereinafter “Eick”).

1 Claim 24 stands rejected under 35 U.S.C. § 103(a) as allegedly being
2 obvious over Thatcher in view of Eick.
3

4 **The Claims**

5 **Claim 1** recites a method for synchronizing information in namespaces,
6 comprising:

7

- 8 • receiving an indication of a change to information in a first
namespace;
- 9 • based on the indication, determining if an entity exists in a second
namespace related to the information;
- 10 • if so, determining if the entity has a characteristic that conflicts with
the information; and
- 11 • if a conflict exists, modifying the entity to resolve the conflict prior
to applying the change to the second namespace.

12

13 In making out the rejection of this claim, the Office argues that its subject
14 matter is obvious over Thatcher in view of Karamanolis. Applicant respectfully
15 disagrees and submits that the Office has failed to establish a *prima facie* case of
16 obviousness with respect to this claim.

17

18 Specifically, Applicant submits that the Office has failed to establish a
19 proper motivation to combine Karamanolis with Thatcher. The motivation
20 provided by the Office to combine these references is to:

21

22 [A]llow users of Thatcher to perform[] namespace operations by
incorporating “log records” to track events of both success as well as failure
records as suggested by Karamanolis...particularly conflicts between link
and unlink operations, furthermore, resolving the conflicts before and after
the initiated link operations related to same namespace and target
objects...also avoid locking distributed resources by serializing operations
at each partition, thus bringing the advantages of “reduces communications

overhead, reduces synchronous I/O and increases operations concurrency...." Office Action at pages 12-13.

Applicant submits that this motivation is insufficient in that Thatcher suffers from no defect or deficiency that would benefit from the addition of Karamanolis. The Office's motivation argues that Thatcher would benefit from the addition of Karamanolis' "log records to track events of both success as well as failure". However, Thatcher has already considered the phenomena of event successes and failures and thus would not benefit from the addition of this feature. Thatcher specifically discloses that:

When a change is made locally to an entry in the distributed directory, the change is detected and a process in the replication system on the server wakes up to propagate the change to all the replicas of the partition. Preferably, there is a brief time delay to allow a cluster of updates to be propagated in one session. This propagation proceeds one replica at a time through the replica list of a partition. After a server successfully sends all pending updates to one replica (or *if the operation fails*), it goes on to the next replica until all replicas have been updated. *Replicas not updated in one round of the synchronization process are rescheduled for a later synchronization cycle.* Thatcher at column 6, line 62, through column 7, line 6 (emphasis added).

Accordingly, Thatcher discloses that if an update operation fails, it is simply rescheduled for a later synchronization cycle. Thatcher further discusses that:

[O]bituaries keep track of information pending transmission to other servers. Obituaries are attribute values not visible to clients, but are used in server-server exchanges. Since obituaries are attribute values, they are synchronized using the same mechanism as the updates and are replicated across the distributed directory. Thatcher at column 7, lines 6-11.

1
2 Thus, Thatcher discloses that information in a pending update operation is
3 tracked by an obituary.

4 Accordingly, the addition of a log file to log successes and failures would
5 simply be superfluous in light of Thatcher's ability reschedule failed update
6 operations for a later synchronization cycle and to further track update information
7 via the disclosed obituary. In point of fact, by requiring Thatcher to further log all
8 of its update processes (successes and failures), the addition of Karamanolis would
9 not "reduce communications overhead", as suggested by the Office, but would
10 actually *increase* communications overhead by adding an extraneous feature that
11 adds no apparent benefit to Thatcher's update process.

12 Finally, the mere fact that particular references *can* be combined or
13 modified does not render the resultant combination obvious unless the prior art
14 also suggests the *desirability* of the combination. See In re Mills, 916 F.2d 680, 16
15 USPQ2d 1430 (Fed. Cir. 1990). Applicant submits that, as explained above, the
16 Office has failed to establish the desirability of combining Karamanolis with
17 Thatcher and thus has, for at least this reason, failed to provide a proper
18 motivation to combine the references. Specifically, the Office uses a motivation
19 that is taken from Karamanolis to argue for its incorporation in Thatcher. As
20 pointed out above, however, Thatcher neither suffers from any problem nor makes
21 any statement which would lead one to look to Karamanolis for a solution. By
22 using Karamanolis' disclosure to find a motivation to combine Karamanolis with
23 Thatcher, the Office is effectively bootstrapping the combination with nothing but
24 a misplaced, unneeded motivation founded squarely on a foundation of hindsight
25

1 reconstruction which, as the Office appreciates, has been specifically proscribed
2 by the Federal Circuit.

3 Accordingly, and at least for the reasons discussed above, the Office has
4 failed to establish a *prima facie* case of obviousness with respect to this claim and
5 this claim is allowable.

6 **Claims 2-12** depend from claim 1 and thus are allowable as depending
7 from an allowable base claim. These claims are also allowable for their own
8 recited features which, in combination with those recited in claim 1, are neither
9 disclosed nor suggested by the reference of record.

10 **Claim 13** recites a method for synchronizing information in namespaces,
11 comprising:

12

- 13 • receiving an indication of a change to information in a first
namespace;
- 14 • based on the indication, determining if an entity exists in a second
namespace related to the information;
- 15 • if not, creating a representation of the entity within the second
namespace.

17 In making out the rejection of this claim, the Office argues that its subject
18 matter is obvious over Thatcher in view of Karamanolis. In its rejection, the
19 Office relies on the arguments presented for claim 1. However, as discussed
20 above, Applicant submits that Thatcher suffers from no defect or deficiency that
21 requires the addition of Karamanolis and that the Office has thus failed to establish
22 a proper motivation to combine the references. Accordingly, and at least for these
23 reasons, the Office has failed to establish a *prima facie* case of obviousness and
24 this claim is allowable.
25

1 **Claims 14-20** depend from claim 13 and thus are allowable as depending
2 from an allowable base claim. These claims are also allowable for their own
3 recited features which, in combination with those recited in claim 13, are neither
4 disclosed nor suggested by the reference of record. In addition, to the extent that
5 claim 13 is allowable, the further rejection of claims 16-19 over Thatcher in view
6 of Karamanolis and in further view of Eick is not seen to add anything of
7 significance.

8 **Claim 21** recites a technique for synchronizing entities within two
9 namespaces, comprising:

10

- 11 • while synchronizing the two namespaces;
- 12 • identifying a conflict between a change notification received from a first namespace and a state of information within a second namespace;
- 13 • creating a temporary entity within the second namespace that allows the synchronization to proceed without interference by the conflict; and
- 14 • if the conflict becomes resolved such that the temporary entity is no longer necessary, removing the temporary entity.

15

17 In making out the rejection of this claim, the Office argues that its subject
18 matter is obvious over Thatcher in view of Karamanolis. Applicant respectfully
19 disagrees and submits that the Office has failed to establish a *prima facie* case of
20 obviousness with respect to this claim.

21 Specifically, Applicant submits that the Office has failed to provide a proper motivation to combine these references. The motivation provided by the
22 Office is identical to that provided for claim 1. However, as discussed above,
23 Applicant submits that Thatcher suffers from no defect or deficiency that requires
24

1 the addition of Karamanolis and that the Office has thus failed to establish a
2 proper motivation to combine the references. Accordingly, and at least for these
3 reasons, the Office has failed to establish a *prima facie* case of obviousness and
4 this claim is allowable.

5 **Claims 22-23** depend from claim 21 and thus are allowable as depending
6 from an allowable base claim. These claims are also allowable for their own
7 recited features which, in combination with those recited in claim 21, are neither
8 disclosed nor suggested by the reference of record.

9 **Claim 24** recites a computer-readable medium encoded with a data
10 structure, comprising:

- 11 • a plurality of entities, each entity having
- 12 • a first field having a name, the name being unique across each entity
13 in the data structure;
- 14 • a second field having an identity, the identity being globally unique;
15 and
- 16 • a third field having a phantom property, the phantom property being
17 operative to distinguish between a first state of the entity and a
18 second state of the entity.

19 In making out the rejection of this claim, the Office argues that its subject
20 matter is obvious over Thatcher in view of Eick. Applicant respectfully disagrees
21 and submits that the Office has failed to establish a *prima facie* case of
obviousness with respect to this claim.

22 The motivation provided by the Office to combine these references is to:

23 [A]llow[] the users of Thatcher to implement the interface based on node
24 and linking various namespaces in a hierarchical data structure, furthermore
25 allowing users of Thatcher to use interface programming of Eick configure
to support a range of viewing functions that including identification,

selection, collapse, expand, reposition and transforming of namespace related objects, also allows user to group sets of nodes and links into "phantom" aggregate node that including flags associated with each object using high-performance language...thus substantially reduces the time and expense associated with developing network interface in synchronized with the network data.... Office Action at page 25.

However, Applicant submits that Thatcher suffers from no defect or deficiency that would benefit from the addition of Eick and as such, the motivation to combine these references provided by the Office is insufficient to support an obviousness rejection under § 103.

The Office argues above that Eick would allow Thatcher to implement an interface "based on node and linking various namespaces in a hierarchical data structure". However, Thatcher already utilizes an interface based on linked nodes with data arranged in a hierarchical structure (see figures 2 and 3 of Thatcher). Thus Thatcher does not require the addition of this feature.

The remainder of the motivation provided by the Office (excerpted above) simply recites several features from Eick and concludes that these would "substantially reduce[] the time and expense associated with developing network interface in synchronized with the network data." The Office provides no insight into the particular defects or deficiencies in Thatcher that would benefit from Eick and thus "reduce the time and expense" as argued by the Office. Thatcher appears to have fully provided for a network interface and for the ability to synchronize network data, and there is no indication that Eick's system and method is superior to that discussed by Thatcher. Thus there is no indication as to why it would be desirable to combine Eick with Thatcher.

1 Accordingly, and at least for these reasons, the Office has failed to establish
2 a *prima facie* case of obviousness with respect to this claim and this claim is
3 allowable.

4 **Claim 25** recites a computer-readable medium having computer-executable
5 components, comprising:

6

- 7 • a synchronization environment having an associated external
8 namespace, an associated central namespace, and a synchronization
9 mechanism, the synchronization mechanism being configured to
10 receive change information from the external namespace that
11 identifies a plurality of changes to at least one object in the external
12 namespace, the synchronization mechanism being configured to
13 receive the change information in a first order that differs from a
14 second order, the second order being the temporal order in which the
15 changes occurred to the at least one object in the external
16 namespace, the synchronization mechanism further comprising a
17 name resolving component and a placeholder component, the name
18 resolving component being operative to avoid name collisions and
19 the placeholder component being operative to avoid dangling
20 references.

21 In making out the rejection of this claim, the Office argues that its subject
22 matter is obvious over Thatcher in view of Karamanolis. Applicant respectfully
23 disagrees and submits that the Office has failed to establish a *prima facie* case of
24 obviousness with respect to this claim.

25 Specifically, Applicant submits that the Office has failed to provide a
proper motivation to combine Karamanolis with Thatcher. The motivation
provided by the Office with respect to the present claim is identical to that
provided for claim 1. However, as discussed above, this motivation is simply
improper and fails to establish why it would be desirable to combine these
references.

1 Accordingly, and at least for this reason, the Office has failed to establish a
2 *prima facie* case of obviousness and this claim is allowable.

3 **Claims 26-33** depend from claim 25 and thus are allowable as
4 depending from an allowable base claim. These claims are also allowable for their
5 own recited features which, in combination with those recited in claim 25, are
6 neither disclosed nor suggested by the reference of record. In addition, to the
7 extent that claim 25 is allowable, the further rejection of claims 32-33 over
8 Thatcher in view of Karamanolis and in further view of Eick is not seen to add
9 anything of significance.

10
11 **Conclusion**

12 All of the claims are in condition for allowance. Accordingly, Applicant
13 requests a Notice of Allowability be issued forthwith. If the Office's next
14 anticipated action is to be anything other than issuance of a Notice of Allowability,
15 Applicant respectfully requests a telephone call for the purpose of scheduling an
16 interview.

17
18 Respectfully Submitted,

19 Dated: 7/5/06

20 By: 
21 Lance R. Sader
Reg. No. 38,605
(509) 324-9256